

# UNIFORM MORTGAGE LENDER/MORTGAGE BROKER FORM

## FORM MU1 INSTRUCTIONS

### A. GENERAL INSTRUCTIONS

1. **FILING** – Form MU1 is the Uniform Mortgage Lender/Mortgage Broker business Application. Any *applicant* for a Mortgage Lender or a Mortgage Broker business license may apply to *jurisdictions* that have adopted the Uniform Application using Form MU1. An *applicant* must also refer to each *jurisdiction* in which it is applying for *jurisdiction-specific* requirements.
2. **TERMS USED** – See the following Explanation of Terms section regarding italicized words/phrases.
3. **EXECUTION** – The execution section must be completed by an authorized representative of the *applicant* (corporate officer, partner, member, sole proprietor, etc).
4. **DATES** – The filing date is the date *applicant* submits this form to the *jurisdiction(s)*. The effective date is the date *applicant* would like this license/registration or amendment to become effective. Consult applicable *jurisdiction* for effective date expectations. *Idaho anticipates 30-60 days from receipt of a **complete** (not partially filed) application.*
5. **AMENDMENTS** – The *applicant* must update information as required in each applicable *jurisdiction* by submitting amendments using Form MU1. Only complete the information that is being amended as well as the name of the *applicant* and circle the item being amended. Consult each *jurisdiction* concerning the return of the prior original license/registration document when submitting the amended Form MU1.
6. **CONTACT EMPLOYEE** – The individual listed as the contact employee must be authorized to receive all compliance and licensing information, communications, and mailings, and be responsible for disseminating it within the applicant's organization.
7. **SURRENDER / CLOSE** – When an *applicant* decides to cease operations under the license/registration, use the Form MU1 to notify *jurisdiction(s)* by checking the "surrender" box and completing only items 1A, J, and K. Surrender the original license/registration document (if any was issued) to the *jurisdiction(s)*. Consult each *jurisdiction* concerning additional specific requirements at surrender/closure.

### B. FILING INSTRUCTIONS

#### 1. FORMAT

- A. A fully completed Form MU1 is required to be submitted to each *jurisdiction* when the *applicant* is filing for the first time. The *applicant* should contact the appropriate *jurisdiction(s)* for specific filing requirements, including applicable fees. *Refer to the Idaho Addendum for Idaho-jurisdiction specific requirements.*
- B. The Execution section must include notarized original manual signature, for the initial Form MU1 filing.
- C. Type all information.
- D. Use only the current version of Form MU1 and its Schedules or a reproduction of them.

#### 2. ATTACHMENTS – Provide the following (*and refer to the Idaho Addendum for Idaho-jurisdiction specific attachments*):

- A. Schedules A, B, and C – File Schedules A and B only with initial applications. Use Schedule C to update Schedules A and B as needed.
- B. File a Form MU2 for each **individual** designated on Schedule A or C as a "*control person*".
- C. Enclose a Certificate of Good Standing from the Secretary of State or similar state authority for the state where the *applicant* obtained its legal status listed in Item 3C and for the *jurisdiction(s)* for which the *applicant* is applying.
- D. If the applicant is a partnership of any form, enclose a copy of the partnership agreement.
- E. Some *jurisdiction(s)* require separate filings for use of fictitious name/trade name/doing business as name(s). Consult the *jurisdiction(s)* to determine such requirements, and attach a copy of such filing if required by that *jurisdiction*.
- F. The name, full delivery address, and telephone number of the registered agent for service of legal process. Consult the *jurisdiction(s)* to determine if the registered agent is required to be located within the *jurisdiction(s)* in which you are applying.
- G. Depending on the *jurisdiction*, individual(s) originating or soliciting to originate mortgage loans at the business may need to file a Form MU4. Please consult your chosen *jurisdiction(s)* to verify the requirements there.
- H. Depending on the *jurisdiction*, branch offices may need to complete a Form MU3. Please consult your chosen *jurisdiction(s)* to verify the requirements there.

3. **FINANCIAL RESPONSIBILITY** – Consult each *jurisdiction* in which the *applicant* is applying to determine requirements for financial responsibility. These may include the submission of financial statements, surety bond(s), minimum net worth, or other requirements. *Refer to the Idaho Addendum for Idaho-jurisdiction specific requirements*
4. **JURISDICTION-SPECIFIC REQUIREMENTS** – Consult each *jurisdiction* in which the *applicant* is applying for a list of requirements unique to the *jurisdiction(s)*, including applicable fees, records retention, etc. *Refer to the Idaho Addendum for Idaho-jurisdiction specific requirements*

**C. EXPLANATION OF TERMS** – The following terms are italicized throughout Form MU1

**1. GENERAL**

**APPLICANT** – The mortgage lender or mortgage broker applying or amending information on this form. The only instance in which the *applicant* is an individual is in the case of a sole proprietorship.

**CONTROL** – The power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any *person* that (i) is a director, general partner or officer exercising executive responsibility (or having similar status or functions); (ii) directly or indirectly has the right to vote 10% or more of a class of a voting security or has the power to sell or direct the sale of 10% or more of a class of voting securities; or (iii) in the case of a partnership, has the right to receive upon dissolution, or has contributed, 10% or more of the capital, is presumed to control that company.

**CONTROL PERSON** – An individual named in Item 1A or in Schedules A, B or C that directly or indirectly exercises control over the *applicant*.

**JURISDICTION** – A state, the District of Columbia, the Commonwealth of Puerto Rico, or any subdivision or regulatory body thereof.

**PERSON** – An individual, partnership, corporation, trust, or other organization.

**2. FOR THE PURPOSE OF ITEM 8**

**CHARGED** – Being accused of a crime in a formal complaint, information, or indictment (or equivalent formal charge).

**CONTROL AFFILIATE** – A *person* named in Item 1A or in Schedules A, B or C as a *control person* or any other individual or organization that directly or indirectly controls, is under common control with, or is controlled by, the *applicant*, including any current employee except one performing only clerical, administrative, support or similar functions, or who, regardless of title, performs no executive duties or has no senior policy making authority.

**ENJOINED** – Includes being subject to a mandatory injunction, prohibitory injunction, preliminary injunction, or a temporary restraining order.

**FELONY** – For *jurisdictions* that do not differentiate between a *felony* and a *misdemeanor*, a *felony* is an offense punishable by a sentence of at least one year imprisonment and/or a fine of at least \$1,000. The term also includes a general court martial.

**FINANCIAL SERVICES OR FINANCIAL SERVICES RELATED** – Pertaining to securities, commodities, banking, insurance, consumer lending, or real estate (including, but not limited to, acting as or being associated with a bank or savings association, credit union, mortgage lender, mortgage broker, *real estate agent*, closing agent, title company, or escrow agent).

**FOREIGN FINANCIAL REGULATORY AUTHORITY** – Includes (1) a *financial services* authority of a foreign country; (2) other governmental body empowered by a foreign government to administer or enforce its laws relating to the regulation of *financial services* or *financial services-related* activities; and (3) a foreign membership organization, a function of which is to regulate the participation of its members in *financial services* activities listed above.

**FOUND** – Includes adverse final actions, including consent decrees in which the respondent has neither admitted nor denied the findings, but does not include agreements, deficiency letters, examination reports, memoranda of understanding, letters of caution, admonishments, and similar informal resolutions of matters.

**INVOLVED** – Doing an act or omission or aiding, abetting, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act or omission.

**MISDEMEANOR** – For *jurisdictions* that do not differentiate between a *felony* and a *misdemeanor*, a *misdemeanor* is an offense punishable by a sentence of less than one year imprisonment and/or a fine of less than \$1,000. The term also includes a special court martial.

**ORDER** – A written directive issued pursuant to statutory authority and procedures, including orders of denial, suspension, or revocation; does not include special stipulations, undertakings or agreements relating to payments, limitations on activity or other restrictions unless they are included in an *order*.

**PROCEEDING** – Includes a formal administrative or civil action initiated by a governmental agency, self-regulatory organization or a *foreign financial regulatory authority*, a *felony* criminal indictment or information (or equivalent formal charge); or a *misdemeanor* criminal information (or equivalent formal charge). The term does not include other civil litigation, investigations, or arrests or similar charges affected in the absence of a formal criminal indictment or information (or equivalent formal charge).

|  |   |  |              |              |         |              |         |              |         |              |
|--|---|--|--------------|--------------|---------|--------------|---------|--------------|---------|--------------|
| <b>FORM MU1</b>  | <b>UNIFORM MORTGAGE LENDER/MORTGAGE BROKER FORM</b> | MORTGAGE BROKER <input type="checkbox"/><br>MORTGAGE LENDER <input type="checkbox"/><br>MORTGAGE SERVICER <input type="checkbox"/> |              |              |         |              |         |              |         |              |
| Date of Filing: _____ Effective Date: _____  |   |  |              |              |         |              |         |              |         |              |
| <b>WARNING:</b> Failure to keep this form current and to file accurate supplementary information on a timely basis, or the failure to keep accurate books and records or otherwise to comply with the provisions of law pertaining to the conduct of business for which you are applying, may violate the laws of the <i>jurisdictions</i> and may result in disciplinary, administrative, injunctive or criminal action.<br><b>INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACTS MAY CONSTITUTE CRIMINAL VIOLATIONS.</b>  |   |  |              |              |         |              |         |              |         |              |
| NEW APPLICATION <input type="checkbox"/> SURRENDER <input type="checkbox"/> AMENDMENT <input type="checkbox"/> <b>To amend, circle item(s) being amended.</b>  |   |  |              |              |         |              |         |              |         |              |
| 1. Exact name, principal business address, mailing address, if different, and telephone numbers of <i>applicant</i> :<br><div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> A. Full name of <i>applicant</i>:<br/> <small>(if sole proprietor, provide last, first and middle name)</small> </div> <div style="width: 35%;"> B. IRS Employer Identification Number<br/> <small>(Social Security No is allowed for sole proprietorship)</small> </div> </div> C. (1) _____ Name under which business primarily is or will be conducted, if different from Item 1A.<br>(2) _____ List any other name(s) by which the <i>applicant</i> conducts or will conduct business and the <i>jurisdiction(s)</i> in which they are or will be used (Use additional sheets as necessary). <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <tr> <td style="width: 33%;">1. Name</td> <td style="width: 33%;">Jurisdiction</td> <td style="width: 33%;">2. Name</td> <td style="width: 33%;">Jurisdiction</td> </tr> <tr> <td>3. Name</td> <td>Jurisdiction</td> <td>4. Name</td> <td>Jurisdiction</td> </tr> </table> D. If this filing makes a name change on behalf of the <i>applicant</i> , enter the new name and specify whether the name change is of the<br><input type="checkbox"/> <i>applicant</i> name (1A) or <input type="checkbox"/> business name (1C): _____ E. Main address: (Do not use a P.O. Box)<br><div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 35%;">Number and Street</div> <div style="width: 15%;">City</div> <div style="width: 25%;">State/Country</div> <div style="width: 25%;">Zip+4/Postal Code</div> </div> F. Mailing address, if different:<br><div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 35%;">PO Box or Number and Street</div> <div style="width: 15%;">City</div> <div style="width: 25%;">State/Country</div> <div style="width: 25%;">Zip+4/Postal Code</div> </div> G. Telephone Numbers and Website address:<br><div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Business phone<br/> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 45%;">Area Code</div> <div style="width: 55%;">Telephone Number</div> </div> website address #1 </div> <div style="width: 45%;"> Fax line<br/> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 45%;">Area Code</div> <div style="width: 55%;">Telephone Number</div> </div> website address #2 </div> </div> H. Other than the office in 1E, does the <i>applicant</i> conduct business with consumers through branch offices or other business locations?<br><input type="checkbox"/> YES <input type="checkbox"/> NO (In certain <i>jurisdictions</i> , branch offices or other business locations must be reported or approved. Use Form MU3.) I. Contact Employee:<br><div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 45%;">Name and Title</div> <div style="width: 55%;">Area Code Telephone Number</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 45%;">Number and Street</div> <div style="width: 15%;">City</div> <div style="width: 25%;">State/Country</div> <div style="width: 15%;">Zip+4/Postal Code</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 45%;">E-mail Address</div> <div style="width: 55%;">Fax Number</div> </div> J. Employee authorized to respond to consumer complaints:<br><div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 45%;">Name and Title</div> <div style="width: 55%;">Area Code Telephone Number</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 45%;">Number and Street</div> <div style="width: 15%;">City</div> <div style="width: 25%;">State/Country</div> <div style="width: 15%;">Zip+4/Postal Code</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 45%;">E-mail Address</div> <div style="width: 55%;">Fax Number</div> </div> K. Physical address of location where the official books and records of the <i>applicant</i> will be kept. Consult each <i>jurisdiction</i> for specific records retention requirements.<br><div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 55%;">Organization Name (if different from <i>applicant</i>) or Records Custodian Name</div> <div style="width: 45%;">Area Code Telephone Number</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 45%;">Number and Street</div> <div style="width: 15%;">City</div> <div style="width: 25%;">State/Country</div> <div style="width: 15%;">Zip+4/Postal Code</div> </div> |   |  | 1. Name      | Jurisdiction | 2. Name | Jurisdiction | 3. Name | Jurisdiction | 4. Name | Jurisdiction |
| 1. Name  | Jurisdiction  | 2. Name  | Jurisdiction |              |         |              |         |              |         |              |
| 3. Name  | Jurisdiction  | 4. Name  | Jurisdiction |              |         |              |         |              |         |              |
| <b>EXECUTION:</b> The undersigned, being first duly sworn, deposes and says that he/she has executed this form on behalf of, and with the authority of, said <i>applicant</i> . The undersigned and <i>applicant</i> represent that the information and statements contained herein, including exhibits attached hereto, and other information filed herewith, all of which are made a part hereof, are current, true and complete. The undersigned and <i>applicant</i> further represent that to the extent any information previously submitted is not amended such information is currently accurate and complete.   |   |  |              |              |         |              |         |              |         |              |
| <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> Notary seal here<br/><br/> Notary Public Signature </div> <div style="width: 60%;"> <div style="display: flex; justify-content: space-between; margin-bottom: 10px;"> <div style="width: 30%;">Date (MM/DD/YYYY)</div> <div style="width: 40%;">Signature of authorized party</div> <div style="width: 30%;">Title</div> </div> <div style="display: flex; justify-content: space-between; margin-bottom: 10px;"> <div style="width: 60%;">Subscribed &amp; Sworn before me _____</div> <div style="width: 40%;">by _____</div> </div> <div style="display: flex; justify-content: space-between; margin-bottom: 10px;"> <div style="width: 60%;">Print Notary Public name</div> <div style="width: 40%;">Print authorized party name</div> </div> <div style="display: flex; justify-content: space-between; margin-bottom: 10px;"> <div style="width: 60%;">on this _____ day of _____</div> <div style="width: 40%;">at _____</div> </div> <div style="display: flex; justify-content: space-between; margin-bottom: 10px;"> <div style="width: 60%;">Month Year</div> <div style="width: 40%;">State County</div> </div> <div style="display: flex; justify-content: space-between; margin-bottom: 10px;"> <div style="width: 60%;">Notary Public Signature</div> <div style="width: 40%;">Notary Appointment Expires (MM/DD/YYYY)</div> </div> </div> </div>   |   |  |              |              |         |              |         |              |         |              |
| <b>This execution must always be completed in full with original, manual signature and notarization. Affix notary stamp or seal where applicable.</b>  |   |  |              |              |         |              |         |              |         |              |

Applicant full legal name: \_\_\_\_\_

2. Enter appropriate number in the box(es) for each *jurisdiction*:  
Enter "1" if *applicant is newly applying* in that *jurisdiction* as a mortgage lender (ML) and/or mortgage broker (MB).  
Enter "2" if *applicant has a pending application* in that *jurisdiction* as a mortgage lender (ML) and/or mortgage broker (MB).  
Enter "3" if *applicant is already licensed/registered* in that *jurisdiction* as a mortgage lender (ML) and/or mortgage broker (MB).

|                      | ML | MB |               | ML | MB |                | ML | MB |                | ML | MB |
|----------------------|----|----|---------------|----|----|----------------|----|----|----------------|----|----|
| Alabama              |    |    | Idaho         |    |    | Montana        |    |    | Rhode Island   |    |    |
| Alaska               |    |    | Illinois      |    |    | Nebraska       |    |    | South Carolina |    |    |
| Arizona              |    |    | Indiana       |    |    | Nevada         |    |    | South Dakota   |    |    |
| Arkansas             |    |    | Iowa          |    |    | New Hampshire  |    |    | Tennessee      |    |    |
| California – DOC     |    |    | Kansas        |    |    | New Jersey     |    |    | Texas – OCCC   |    |    |
| California – DRE     |    |    | Kentucky      |    |    | New Mexico     |    |    | Texas – SML    |    |    |
| Colorado             |    |    | Louisiana     |    |    | New York       |    |    | Utah           |    |    |
| Connecticut          |    |    | Maine         |    |    | North Carolina |    |    | Vermont        |    |    |
| Delaware             |    |    | Maryland      |    |    | North Dakota   |    |    | Virginia       |    |    |
| District of Columbia |    |    | Massachusetts |    |    | Ohio           |    |    | Washington     |    |    |
| Florida              |    |    | Michigan      |    |    | Oklahoma       |    |    | West Virginia  |    |    |
| Georgia              |    |    | Minnesota     |    |    | Oregon         |    |    | Wisconsin      |    |    |
| Guam                 |    |    | Mississippi   |    |    | Pennsylvania   |    |    | Wyoming        |    |    |
| Hawaii               |    |    | Missouri      |    |    | Puerto Rico    |    |    |                |    |    |

3. A. Indicate legal status of *applicant*.  
☐ Corporation ☐ Sole Proprietorship ☐ Other (*specify*) \_\_\_\_\_  
☐ Partnership ☐ Limited Liability Company
- B. *Applicant's* fiscal year end (MM/DD): \_\_\_\_\_
- C. If other than a sole proprietorship, indicate date and place *applicant* obtained its legal status (i.e., state or country where incorporated, where partnership agreement was filed, or where *applicant* entity was formed):  
State/Country of formation: \_\_\_\_\_ Date of formation (MM/DD/YYYY): \_\_\_\_\_
- D. If *applicant* is a publicly traded corporation, please insert stock symbol: \_\_\_\_\_

4. A. Directly or indirectly, does *applicant control*, is *applicant controlled* by, or is *applicant* under common *control* with, any *person* that is engaged in the business of a mortgage lender or mortgage broker? If *no*, go to 4B. YES NO  
☐ ☐
- (check only one for each relationship, attach additional copies as needed)

This Partnership, Corporation, or Organization \_\_\_\_\_  
Partnership, Corporation, or Organization Name

☐ controls *applicant* ☐ is controlled by *applicant* ☐ is under common *control* with *applicant*

\_\_\_\_\_  
Number and Street City State/Country Zip+4/Postal Code

Briefly describe the *control* relationship, including an organizational chart which shows the relationship. Use additional sheets for comments if necessary.

- B. Directly or indirectly, is *applicant controlled* by any of the following? If *no*, go to 5. YES NO  
☐ ☐
- ☐ Bank Holding Company ☐ National Bank ☐ State Member Bank of the Federal Reserve System  
☐ State Non-Member Bank ☐ Savings Association/Savings Bank ☐ Credit Union ☐ Foreign Bank ☐ Thrift Holding Company

\_\_\_\_\_  
Financial Institution Name

\_\_\_\_\_  
Number and Street City State/Country Zip+4/Postal Code

Briefly describe the *control* relationship, including an organizational chart which shows the relationship. Use additional sheets for comments if necessary.

Schedule A and, if applicable, Schedule B must be completed as part of all initial applications.



Applicant full legal name: \_\_\_\_\_

|   |   |   |
|---|---|---|
| <p>5. Check type(s) of mortgage related business engaged in (or to be engaged in, if not yet active) by <i>applicant</i>.</p> <p>A. First mortgage loans</p> <p>B. Second mortgage loans</p> <p>C. Home equity loans, including lines of credit</p> <p>D. Loans guaranteed by the Federal Housing Administration (FHA)</p> <p>E. Loans guaranteed by the Veterans Administration (VA)</p> <p>F. Reverse mortgage loans</p> <p>G. High cost home loans (refer to various state definitions of covered transactions)</p> <p>H. Mortgage Servicing</p> <p>I. Other mortgage products and services (If "yes", briefly describe below)</p> <p>J. Credit insurance</p>  | <p><b>YES</b></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> |   |
| <p>6. Will <i>applicant</i> engage in any non-mortgage-related business?</p> <p>If "yes" briefly describe. _____</p>  | <p><b>YES</b></p> <p><input type="checkbox"/></p>   | <p><b>NO</b></p> <p><input type="checkbox"/></p>  |
| <p>7. Will <i>applicant</i> occupy or share space with any <i>person(s)</i> engaged in <i>financial services-related</i> activity? If "yes," provide the name(s) of the other <i>person(s)</i>. _____</p>   | <p><b>YES</b></p> <p><input type="checkbox"/></p>   | <p><b>NO</b></p> <p><input type="checkbox"/></p>  |
| <p>8. If the answer to any of the following is "YES", provide complete details of all events or <i>proceedings</i> in an attachment. Refer to the explanation of terms section of the instructions for explanations of italicized terms. <b>Remember to file updates of these disclosures as needed.</b></p>  |   |   |
| <p style="text-align: center;"><b>Criminal Disclosure</b></p> <p>A. Has the <i>applicant</i> or a <i>control affiliate</i> ever:</p> <p>(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any <i>felony</i>?</p> <p>(2) been <i>charged</i> with any <i>felony</i>?</p> <p>B. In the past ten years has the <i>applicant</i> or a <i>control affiliate</i>:</p> <p>(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to a <i>misdemeanor involving financial services</i> or a <i>financial services-related</i> business or any fraud, false statements or omissions, theft or any wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?</p> <p>(2) been <i>charged</i> with a <i>misdemeanor</i> specified in 8B(1)?</p>   | <p><b>YES</b></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>   | <p><b>NO</b></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>  |
| <p style="text-align: center;"><b>Regulatory Action Disclosure</b></p> <p>C. Has any State or federal regulatory agency or <i>foreign financial regulatory authority</i> ever:</p> <p>(1) <i>found</i> the <i>applicant</i> or a <i>control affiliate</i> to have made a false statement or omission or been dishonest, unfair or unethical?</p> <p>(2) <i>found</i> the <i>applicant</i> or a <i>control affiliate</i> to have been <i>involved</i> in a violation of a <i>financial services-related</i> regulation(s) or statute(s)?</p> <p>(3) <i>found</i> the <i>applicant</i> or a <i>control affiliate</i> to have been a cause of a <i>financial services-related</i> business having its authorization to do business denied, suspended, revoked or restricted?</p> <p>(4) entered an <i>order</i> against the <i>applicant</i> or a <i>control affiliate</i> in connection with a <i>financial services-related</i> activity?</p> <p>(5) denied, suspended, or revoked the <i>applicant's</i> or a <i>control affiliate's</i> registration or license or otherwise, by <i>order</i>, prevented it from associating with a <i>financial services-related</i> business or restricted its activities?</p> <p>D. Has the <i>applicant's</i> or a <i>control affiliate's</i> authorization to act as an attorney, accountant, or State or federal contractor ever been revoked or suspended?</p> <p>E. Is the <i>applicant</i> or a <i>control affiliate</i> now the subject of any regulatory <i>proceeding</i> that could result in a "yes" answer to any part of 8C?</p> | <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>   | <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> |
| <p style="text-align: center;"><b>Civil Judicial Disclosure</b></p> <p>F. (1) Has any domestic or foreign court:</p> <p>(a) in the past ten years <i>enjoined</i> the <i>applicant</i> or a <i>control affiliate</i> in connection with any <i>financial services-related</i> activity?</p> <p>(b) ever <i>found</i> the <i>applicant</i> or a <i>control affiliate</i> was <i>involved</i> in a violation of any <i>financial services-related</i> statute(s) or regulation(s)?</p> <p>(c) ever dismissed, pursuant to a settlement agreement, a <i>financial services-related</i> civil action brought against the <i>applicant</i> or <i>control affiliate</i> by a State or <i>foreign financial regulatory authority</i>?</p> <p>(2) Is the <i>applicant</i> or a <i>control affiliate</i> named in any pending <i>financial services-related</i> civil action that could result in a "yes" answer to any part of 8F(1)?</p>   | <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>   | <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>   |
| <p style="text-align: center;"><b>Financial Disclosure</b></p> <p>G. In the past ten years has the <i>applicant</i> or a <i>control affiliate</i> been a mortgage lender or a mortgage broker or a <i>control affiliate</i> of a mortgage lender or a mortgage broker that has been the subject of a bankruptcy petition?</p> <p>H. Has a bonding company ever denied, paid out on, or revoked a bond for the <i>applicant</i>?</p> <p>I. Does the <i>applicant</i> have any unsatisfied judgments or liens against it?</p>   | <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>   | <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>   |

**Schedule A**  
**DIRECT OWNERS AND**  
**EXECUTIVE OFFICERS**  
(Answer for Form MU1 Item 4)

Applicant full legal name: \_\_\_\_\_

Date: \_\_\_\_\_

1. Use Schedule A only in new applications to provide information on the **direct** owners and executive officers of the *applicant*. Use Schedule B in new applications to provide information on **indirect** owners. File all amendments on Schedule C. **Complete each column.**

2. List below the names of:

- (a) each *control person* and executive officer, including Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Legal Officer, Chief Compliance Officer, Director, and individuals with similar status or functions;
- (b) in the case of an *applicant* that is a corporation, each shareholder that directly owns 10% or more of a class of a voting security of the *applicant*, unless the *applicant* is a publicly traded company;
- Direct owners include any *person* that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 10% or more of a class of a voting security of the *applicant*. For purposes of this Schedule, a *person* beneficially owns any securities (i) owned by his/her child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, sharing the same residence; or (ii) that he/she has the right to acquire, within 60 days, through the exercise of any option, warrant or right to purchase the security.
- (c) in the case of an *applicant* that is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 10% or more of the partnership's capital;
- (d) in the case of a trust that directly owns 10% or more of a class of a voting security of the *applicant*, or that has the right to receive upon dissolution, or have contributed, 10% or more of the *applicant's* capital, the trust and each trustee;
- (e) in the case of an *applicant* that is a Limited Liability Company ("LLC"), (i) those members that have the right to receive upon dissolution, or have contributed, 10% or more of the LLC's capital, and (ii) if managed by elected managers, all elected managers; and
- (f) in certain *jurisdictions*, other required *persons*, including "qualified *persons*" or branch supervisors. Consult the *jurisdiction(s)* in which the *applicant* is applying for details.

3. Are there any indirect owners of the *applicant* required to be reported on Schedule B? ☐ Yes ☐ No

4. Complete the "Title or Status" column by entering board/management titles; status as a partner, trustee, sole proprietor, or shareholder; and for shareholders, the class of securities owned (if more than one is issued).

5. (a) In the “Control Person” column, enter “Yes” if the *person* has “control” as defined in the instructions to this form, and “No” if the *person* does not have control. Note that under this definition, most executive officers and all 10% owners, general partners, and trustees would be “control persons”. For each “Yes” response, submit Control Persons Information on form MU2.
- (b) In the “Publicly Traded” column, if the owner is a publicly traded company, enter the stock symbol; otherwise enter “NA”.

[illegible]

## Date: \_\_\_\_\_

- [illegible]



**Schedule C**  
**AMENDMENTS TO**  
**SCHEDULES A & B**  
(Amendments to answers for  
Form MU1 Item 4)

Applicant full legal name: \_\_\_\_\_

Effective Date: \_\_\_\_\_

1. This Schedule is used to amend Schedules A and B of Form MU1. Refer to those schedules for specific instructions for completing this Schedule C. **Complete each column.**

2. In the Type of Amendment ("Type of Amd.") column, indicate "A" (addition), "D" (deletion), or "C" (change in information about the same *person*).

3. List below all changes to Schedule A (DIRECT OWNERS AND EXECUTIVE OFFICERS):

[illegible]

4. List below all changes to Schedule B (INDIRECT OWNERS):

[illegible]

JAMES E. RISCH  
GOVERNOR

GAVIN M. GEE  
DIRECTOR

STATE OF IDAHO  
DEPARTMENT OF FINANCE  
700 W. STATE STREET, 2nd FLOOR – BOISE ID 83702  
P O BOX 83720 - BOISE ID 83720-0031  
TELEPHONE: (208) 332-8002  
FAX: (208) 332-8096  
<http://finance.idaho.gov>



IDAHO ADDENDUM  
Jurisdiction-Specific Requirements for the State of Idaho  
Form MU1 Uniform Mortgage Broker/Lender License Application

The following items must be included with any submission for a mortgage broker/lender license in addition to the requirements of the uniform application form. The "Home/Main/Corporate" location must be licensed prior to any branch. Each additional branch location desiring to conduct business in Idaho must be separately licensed and will require a separate filing of an MU3 application form with appropriate fees and bond.

1. **Qualified Person in Charge (QPIC):** This person must demonstrate a minimum of three (3) years' experience specifically in residential mortgage brokering/lending. Idaho Code § 26-3108(2)(b). This person does not have to be an owner, officer, member, partner or director. **The Form MU2 must be completed and provided for each designated QPIC.** A resume must also be submitted and it must contain names, addresses, dates (mo/yr) of employment and **detailed job descriptions/duties** for all employers. Job titles alone are NOT sufficient.

Name of Qualified Person in Charge

Business Address

Phone

Fax

email

**The QPIC must obtain a mortgage loan originator license if he/she conducts or will conduct mortgage loan origination activities in Idaho. If not, this person is still required to obtain continuing education in accordance with IDAPA 12.01.10 (10).**

2. **Evidence of filing with the Idaho Secretary of State's office:** This may be a file-stamped (accepted) copy of the appropriate application or a copy of the actual certificate as issued. If a "d/b/a" or "fictitious" business name will be used in Idaho, a file-stamped copy of the Certificate of Assumed Business Name will also be required. Contact (208) 334-2300 or [www.idsos.state.id.us](http://www.idsos.state.id.us) for further information and filing requirements.
3. **Samples of all origination forms that Idaho borrowers will be required to sign or acknowledge prior to closing.** Idaho Code § 26-3105(8). Do **not** include closing documents such as the Note, Deed of Trust, etc. *Form samples should **also** include those used to satisfy the four (4) required disclosures under Rule 50, IDAPA 12.01.10.50.* Model forms are available on the Department's website at <http://finance.idaho.gov> and are included in any application package that is requested by mail.
4. **Application Fee:** \$350.00 payable to the Idaho Department of Finance. There are no fees charged for amendments such as name or address changes, additions/subtractions of d/b/a's, or corrections. A new full complete application package and fee will be required if the structure of the licensee is changed.
5. **Surety Bond or Certificate of Deposit:** Bond or CD must be in the minimum amount of \$25,000 for the "Home/Main" office, increased by increments of \$10,000 for each additional branch location. There is no maximum cap. The **original** bond or CD must be provided to this office. The bond must be fully executed by both the surety company and applicant. Subsequent increases to the bond may be in the form of a fully executed rider. A CD must be payable to the Idaho Department of Finance, with interest payable to the applicant entity. A CD must remain in place for a period of three (3) years after cessation of Idaho licensure. Instructions for a CD in lieu of surety bond are available on the Department's website at <http://finance.idaho.gov> in the "loan originator and mortgage forms" section. **NOTE: The name of the principal insured on the bond/CD must match EXACTLY to the name shown in section 1A of the Form MU1 and the entity filing with the Idaho Secretary of State.**
6. **Registered Agent:** If your office is outside the border of the state of Idaho, you **must** maintain a registered agent inside Idaho. If needed, contact the Idaho Secretary of State for a list of registered agents.
7. **Mortgage Loan Originators:** Individuals desiring to conduct mortgage loan origination activity in Idaho as defined in Idaho Code §26-3102(20), regardless of title or position, must be licensed prior to commencing origination activity unless exempt under Idaho Code § 26-3103. File Form MU4, with appropriate fee and bond, for each individual.
8. **Corporations/LLC:** Provide recorded copies of Articles of Incorporation or Articles of Organization.

- ☐ **Check this box if you intend to fund, either through a warehouse line or other entity-owned funds, subordinate lien financing (i.e. second mortgages, equity lines, etc), or undertake the assignment and direct collection of payments and enforcement of rights of such subordinate lien loans. If marked, this application will also serve as the application for the Idaho Regulated Lenders License and will subject the applicant to the provisions of the Idaho Credit Code, its renewals and reporting requirements.**

Please submit all items simultaneously. All approved licensees are posted to the Department's website daily. Return this Addendum with your application package

**YOU ARE NOT AUTHORIZED TO ENGAGE IN MORTGAGE BROKERING OR MORTGAGE LENDING ACTIVITIES IN IDAHO UNTIL YOU HAVE RECEIVED A LICENSE AS AN ENTITY FOR THE SPECIFIC LOCATION AND NO LOAN ORIGINATOR IS AUTHORIZED TO ENGAGE IN MORTGAGE LOAN ORIGINATION ACTIVITIES UNTIL HE/SHE HAS RECEIVED A LICENSE OR PROVIDED EVIDENCE OF EXEMPTION.**



STATE OF IDAHO  
DEPARTMENT OF FINANCE  
Consumer Finance Bureau  
700 West State Street, 2<sup>nd</sup> Floor  
P.O. Box 83720  
Boise, ID 83720-0031

|                             |
|-----------------------------|
| BOND # _____                |
| Effective date _____ 20____ |

**SURETY BOND FOR MORTGAGE BROKER/LENDER**

KNOW ALL MEN BY THESE PRESENTS, that we, \_\_\_\_\_, as Principal and \_\_\_\_\_, a corporation duly incorporated under the laws of the state of \_\_\_\_\_, and authorized to do business in the state of Idaho, as surety, are held and firmly bound unto the State of Idaho in the penal sum of \$\_\_\_\_\_ for the payment of which we hereby bind ourselves, our and each of our heirs, assigns, executors and administrators, jointly and severally, firmly by these presents.

In the event that the Principal or any employee or agent of the Principal has violated any of the provisions of chapter 31, title 26, Idaho Code, or of a rule or order lawfully made pursuant to chapter 31, title 26, Idaho Code, or federal law, or regulation pertaining to the mortgage banking or mortgage lending activities set forth in section 26-3102, Idaho Code, and has damaged any person by such violation, then the bond shall be forfeited and paid by the surety to the state of Idaho for the benefit of any person so damaged.

This bond shall be a continuing obligation of the surety. The surety's liability under this bond for any claim that is made thereunder, either individually or in the aggregate, shall in no event exceed the penal amount of the bond issued.

PROVIDED, FURTHER, that the surety may cancel this bond as an entirety by giving thirty (30) days notice to the Idaho Department of Finance at Boise, Idaho, and if canceled by the surety, copy of said notice of cancellation shall be sent by registered mail to the Principal hereunder. Said notice to the Idaho Department of Finance shall also be sent by registered mail. In case of such cancellation by the surety, no further obligation shall be incurred under this bond after the expiration of said thirty (30) days, but the liability of the Principal and surety shall apply as above set out as to any acts or omissions which may have occurred prior to the effective date of such cancellation.

\_\_\_\_\_  
(NAME OF MORTGAGE BROKER/LENDER)

\_\_\_\_\_  
(SIGNATURE OF OFFICER OF THE FIRM)

\_\_\_\_\_  
Date

\_\_\_\_\_  
(NAME OF SURETY COMPANY)

\_\_\_\_\_  
(SIGNATURE OF OFFICER OF SURETY COMPANY)

\_\_\_\_\_  
Date

\_\_\_\_\_  
(TITLE OF OFFICER)

**Licensee Information Disclosure**  
(Rule 50.01 IDAPA 12.01.10.50.01)

|               |                               |
|---------------|-------------------------------|
| Licensee Name | Home/Main Office Phone Number |
|---------------|-------------------------------|

|                          |      |       |     |
|--------------------------|------|-------|-----|
| Home/Main Office Address | City | State | Zip |
|--------------------------|------|-------|-----|

|                            |      |       |     |
|----------------------------|------|-------|-----|
| Originating Office Address | City | State | Zip |
|----------------------------|------|-------|-----|

|                 |              |
|-----------------|--------------|
| Loan Originator | Phone Number |
|-----------------|--------------|

We are acting as a \_\_\_\_\_ Broker \_\_\_\_\_ Lender

We are acting as an \_\_\_\_\_ Independent Contractor \_\_\_\_\_ Agent on your behalf.

BROKER/LENDER shall use its best efforts to obtain a satisfactory mortgage loan commitment on behalf of/for BORROWER, and for compensation will perform services normally and customarily performed in connection with the origination of mortgage loans. These services may include the following:

- ☐ **Yes** ☐ **No** taking information from the borrower and filling out the application;
- ☐ **Yes** ☐ **No** analyzing the prospective borrower income/debt and pre-qualifying the prospective borrower to determine the maximum mortgage said borrower can afford;
- ☐ **Yes** ☐ **No** educating the prospective borrower in the mortgage financing process, including but not limited to, loan products, closing costs, monthly payments and post-closing changes to rate/payment if applicable;
- ☐ **Yes** ☐ **No** collecting financial information and related documents;
- ☐ **Yes** ☐ **No** verifying employment and assets;
- ☐ **Yes** ☐ **No** verifying mortgage and rental histories;
- ☐ **Yes** ☐ **No** ordering appraisals, inspections, flood certifications and preliminary title reports;
- ☐ **Yes** ☐ **No** providing state and federal disclosures such as, but not limited to, good faith estimates, truth in lending statements and privacy policies;
- ☐ **Yes** ☐ **No** ordering credit reports and assisting borrower in understanding credit problems, credit scores and their affect on the financing request;
- ☐ **Yes** ☐ **No** maintaining regular contact with the borrower and their designated parties to keep them apprised of the status of the application;
- ☐ **Yes** ☐ **No** ordering and satisfying conditions of a loan approval;
- ☐ **Yes** ☐ **No** ordering/preparing closing documents;
- ☐ **Yes** ☐ **No** explaining, in detail, any and all compensation received by BROKER/LENDER

from BORROWER, and/or on behalf of BORROWER or BORROWER's loan, however paid, whether received directly (front end) or indirectly (back end).

☐ Yes ☐ No Other:

BORROWER agrees to provide BROKER/LENDER true, complete and accurate information upon request. BORROWER agrees to secure any information or documentation that BROKER/LENDER may not be able to obtain due to policies of employers, lending agencies, government agencies, etc. BORROWER(S) agrees to pay costs associated with securing said information, if any.

BORROWER acknowledges that acceptance and processing of a loan application does not constitute a commitment to lend, nor does it constitute an approval of said application. BORROWER understands that the terms and conditions requested are available at the time of application, but that they may change without notice and that BORROWER(S)' application may not meet the requirements for those terms and conditions.

BORROWER understands that the application may be cancelled **in writing** at any time. However, if third party costs have been incurred by BROKER/LENDER, such as appraisal and credit report, BORROWER agrees to reimburse BROKER/LENDER for said third party costs upon receipt of a written itemized statement of costs incurred. BROKER/LENDER acknowledges that if it is unable to obtain a satisfactory commitment for BORROWER, within three (3) business days of receiving a written cancellation from BORROWER and the receipt of any third party cost reimbursement, such as appraisal and credit report costs, BROKER/LENDER will assign all rights, title and interest in the appraisal, and transmit said appraisal and any documentation provided by the BORROWER, to the licensed or exempt BROKER/LENDER requested by BORROWER.

Any COMPLAINT regarding this loan transaction shall need to be filed in writing with the BROKER/LENDER, or the Idaho Department of Finance, P.O. Box 83720, Boise, Idaho 83720-0031. Complaint forms may be obtained on the internet at <http://finance.idaho.gov> or if preferred to receive by mail, by calling (208) 332-8002.

By signing below, LOAN ORIGINATOR certifies that a copy of this signed disclosure has been delivered to the BORROWER and BORROWER acknowledges receipt of a copy of said disclosure.

\_\_\_\_\_  
Originator Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Borrower Name (printed)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Borrower Signature

\_\_\_\_\_  
Borrower Name (printed)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Borrower Signature

### Model Form

## INTEREST RATE LOCK/FLOAT INFORMATION

DATE: \_\_\_\_\_

APPLICANT(S): \_\_\_\_\_

PROPERTY ADDRESS: \_\_\_\_\_

LOAN AMOUNT: \_\_\_\_\_

TERM: \_\_\_\_\_

( ) **I DO NOT** WANT AN INTEREST RATE LOCK IN AT THIS TIME.

I understand that the lender cannot predict interest rate changes. If I want to obtain an interest rate commitment in the future, I may do so at any time up to \_\_\_\_\_ calendar days before my scheduled closing by signing an Interest Rate Lock In Agreement. That Agreement will be subject to the Lender rate commitment policy in effect on that date.

I understand that it is my responsibility to advise the Lender/Broker of my decision to lock-in, and that if I do not obtain an interest rate commitment, the interest rate and total fees on my loan (if approved) will be set by the Lender within \_\_\_\_\_ calendar days before my mortgage loan closes.

( ) I/WE HEREBY ACKNOWLEDGE that a lock-in option is **NOT** available for the program I/we have selected. I/We further acknowledge that the interest rate contained in my/our application is the rate at which the Lender is currently accepting applications with similar terms as the application and **is subject to change depending upon market interest rates available to the Lender.**

**I UNDERSTAND THAT THIS INTEREST RATE LOCK INFORMATION IS NOT AN APPROVAL OF MY LOAN APPLICATION OR A COMMITMENT BY THE LENDER TO MAKE ME A LOAN. I WILL RECEIVE A LETTER TELLING ME WHETHER MY LOAN APPLICATION HAS BEEN APPROVED OR DENIED.**

I have carefully read and understand the above information.

| APPLICANT | DATE | APPLICANT | DATE |
|-----------|------|-----------|------|
|-----------|------|-----------|------|

| APPLICANT | DATE | APPLICANT | DATE |
|-----------|------|-----------|------|
|-----------|------|-----------|------|

LENDER/BROKER REPRESENTATIVE \_\_\_\_\_ DATE \_\_\_\_\_

# INTEREST RATE LOCK-IN CONFIRMATION AGREEMENT

Borrower(s) Name: \_\_\_\_\_ Date of Lock-In: \_\_\_\_\_

Property Address: \_\_\_\_\_  
\_\_\_\_\_

I/We have applied for a mortgage loan on the above mentioned property and request the following loan lock terms:

Loan Type: \_\_\_\_\_ Loan Term: \_\_\_\_\_

Loan Amount: \_\_\_\_\_ Interest Rate: \_\_\_\_\_

Index: \_\_\_\_\_ Margin: \_\_\_\_\_ Floor Rate: \_\_\_\_\_

Payment/Rate Adjustments: \_\_\_\_\_ 6 Months \_\_\_\_\_ Annual \_\_\_\_\_ Other

Annual or Other Adjustment Cap: \_\_\_\_\_ Life Cap: \_\_\_\_\_

Loan Origination Fee: \_\_\_\_\_ Discount Points \_\_\_\_\_

Yield Spread Premium: \_\_\_\_\_ Lock-in Fee: \_\_\_\_\_

Lock Term: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Comments/Limitations: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This lock-in agreement is not a commitment or agreement to grant your loan request or a loan approval. The loan must be fully underwritten and all conditions must be met prior to the loan closing. It is important that you provide all requested documentation in a timely manner. Lock-in terms will remain in effect through the expiration date except as noted below.

The locked-in interest rate and terms apply solely to the type of mortgage loan for which you have applied and have requested this lock-in for, and has been set as a result of the repayment term, loan amount, program, property and anticipated closing date. You acknowledge and understand that in the event that any of these items are changed, the locked-in interest rate and terms above may no longer be valid and a new lock-in agreement will have to be entered into and another lock-in fee may be charged.

\_\_\_\_\_  
Borrower Date

\_\_\_\_\_  
Borrower Date

\_\_\_\_\_  
Broker/Lender Representative Name (Printed)

\_\_\_\_\_  
Broker/Lender Representative Signature Date

MODEL FORM

## IDAHO PREPAYMENT PENALTY DISCLOSURE

If you, the borrower(s), pay off or refinance your mortgage loan before the date for repayment stated in the loan agreement, you may be charged a prepayment charge.

**A prepayment penalty charge may be significant. Prior to signing any documents, make sure you fully understand the prepayment charge provisions outlined in your loan agreement.**

Your signature acknowledges that you have been advised that a prepayment penalty charge may be a condition of your loan.

Applicant \_\_\_\_\_

Date \_\_\_\_\_

Applicant \_\_\_\_\_

Date \_\_\_\_\_



## RESIDENTIAL MORTGAGE PRACTICES ACT

### CHAPTER 31, TITLE 26, IDAHO CODE

**26-3101. SHORT TITLE.** This chapter shall be known and may be cited as the "Residential Mortgage Practices Act."

**26-3102. DEFINITIONS.** As used in this chapter and in rules promulgated pursuant to this chapter:

- (1) "Act" means this Idaho residential mortgage practices act.
- (2) "Agent" means a person who acts with the consent and on behalf of a licensee, and is subject to the licensee's direct or indirect control, and may include an independent contractor.
- (3) "Borrower" means the person who has applied for a residential mortgage loan from a licensee, or person required to be licensed, under this chapter, or on whose behalf the activities set forth in subsection (18), (19), or (20) of this section are conducted.
- (4) "Department" means the department of finance of the state of Idaho.
- (5) "Director" means the director of the department of finance.
- (6) "Licensee" means a person licensed pursuant to this chapter to engage in the activities regulated by this act.
- (7) "Mortgage lender" means any person, other than an exempt person, who makes residential mortgage loans to borrowers, and performs the activities described in subsection (18) of this section.
- (8) "Mortgage broker" means any person, other than an exempt person, who performs the activities described in subsection (19) of this section with respect to a residential mortgage loan. For the purposes of this chapter, the term "mortgage broker" does not include persons who are mortgage lenders.
- (9) "Loan originator" means any person, other than an exempt person, who performs the activities described in subsection (20) of this section with respect to a residential mortgage loan. For the purposes of this chapter, the term "loan originator" does not include persons who are mortgage brokers or mortgage lenders.
- (10) "Mortgage brokerage agreement" means a written agreement in which a mortgage broker agrees to obtain a residential mortgage loan for the borrower or assist the borrower in obtaining a residential mortgage loan.
- (11) "Person" means an individual, sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or other association of individuals, however organized.
- (12) "Real estate settlement procedures act" means the act set forth in 12 U.S.C. section 2601 et seq., as amended to and including January 1, 2005, or a subsequent date if so defined by administrative rule.
- (13) "Regulation X" means regulation X as promulgated by the U.S. department of housing and urban development and codified in 24 CFR part 3500 et seq., as amended to and including January 1, 2005, or a subsequent date if so defined by administrative rule.

(14) "Regulation Z" means regulation Z as promulgated by the board of governors of the federal reserve system and codified in 12 CFR part 226 et seq., as amended to and including January 1, 2005, or a subsequent date if so defined by administrative rule.

(15) "Residential mortgage loan" means a loan made primarily for personal, family, or household use and primarily secured by a security interest on residential real property located in this state.

(16) "Residential real property" means real property located in this state improved by a one (1) to four (4) family dwelling.

(17) "Truth in lending act" means the act set forth in 15 U.S.C. section 1601 et seq., as amended to and including January 1, 2005, or a subsequent date if so defined by administrative rule.

(18) "Mortgage lending activities" means for compensation or gain, either directly or indirectly, accepting or offering to accept applications for residential mortgage loans, assisting or offering to assist in the preparation of an application for a residential mortgage loan.

(19) "Mortgage brokering activities" means for compensation or gain, either directly or indirectly, accepting or offering to accept an application for a residential mortgage loan, assisting or offering to assist in the preparation of an application for a residential mortgage loan on behalf of a borrower, or negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with any person making residential mortgage loans.

(20) "Loan origination activities" means for compensation or gain, either directly or indirectly, engaging in any of the following activities while representing or acting on behalf of a mortgage broker or mortgage lender:

- (a) Soliciting, accepting, or offering to accept an application for a residential mortgage loan;
- (b) Assisting a borrower or offering to assist a borrower in the preparation of a residential mortgage loan application; or
- (c) Negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with a borrower.

**26-3103. EXEMPTIONS.** The provisions of this chapter do not apply to:

- (1) Agencies of the United States and agencies of this state and its political subdivisions;
- (2) An owner of real property who offers credit secured by a contract of sale, mortgage or deed of trust on the property sold;
- (3) A loan that is made by a person to an employee of that person if the proceeds of the loan are used to assist the employee in meeting his housing needs;
- (4) Regulated lenders licensed under the Idaho credit code and regularly engaged in making regulated consumer loans other than those secured by a security interest in real property;
- (5) Trust companies as defined in section 26-3203, Idaho Code;
- (6) Any person licensed or chartered under the laws of any state or of the United States as a bank, savings and loan association, credit union, or industrial loan company. The terms "bank," "savings and loan association," "credit

union" and "industrial loan company" shall include employees and agents of such organizations as well as wholly-owned subsidiaries of such organizations, provided that the subsidiary is regularly examined by the chartering state or federal agency for consumer compliance purposes, and shall also include employees and agents of a licensee if the licensee is an affiliate of a bank and is wholly owned by the holding company system that owns the bank;

(7) Attorneys, or persons licensed under chapter 2, title 54, Idaho Code, provided that the license held by such attorneys or persons is in an active status;

(8) Persons employed by, or who contract with, a licensee under this chapter to perform only clerical or administrative functions on behalf of such licensee, and who do not solicit borrowers or negotiate the terms of loans on behalf of the licensee;

(9) Any person or entity not making more than five (5) loans primarily for personal, family, or household use and primarily secured by a security interest on residential real property, with his own funds for his own investment, in any period of twelve (12) consecutive months; nor

(10) Any person who funds a residential mortgage loan which has been originated and processed by a licensee or by an exempt person, who does not directly or indirectly solicit borrowers in this state for the purpose of making residential mortgage loans, and who does not participate in the negotiation of residential mortgage loans with the borrower. For the purpose of this subsection, "negotiation of residential mortgage loans" does not include setting the terms under which a person may buy or fund a residential mortgage loan originated by a licensee or exempt person.

**26-3104. UNLAWFUL ACTS.** (1) Any person, except a person exempt under section 26-3103, Idaho Code, who engages in mortgage brokering or mortgage lending activities without first obtaining a mortgage broker or mortgage lender license in accordance with this chapter, shall be guilty of a felony.

(2) Any person, not exempt under section 26-3103, Idaho Code, who engages in loan origination activities without first obtaining a loan originator license in accordance with this chapter, shall be guilty of a felony.

(3) No person, except a person exempt under section 26-3103, Idaho Code, shall engage in mortgage brokering activities, mortgage lending activities, or loan origination activities without first obtaining a license from the department in accordance with this chapter.

**26-3105. POWERS AND DUTIES OF DIRECTOR.** (1) In addition to any other duties imposed upon the director by law, the director shall:

(a) Administer and enforce the provisions and requirements of this chapter;

(b) Conduct investigations and issue subpoenas as necessary to determine whether a person has violated any provision of this chapter or rules promulgated under the authority of this chapter;

(c) Conduct examinations of the books and records of licensees and conduct investigations as necessary and proper for the enforcement of the provisions of this chapter and the rules promulgated under the authority of this chapter;

(d) Appoint a volunteer advisory board which shall consist of two (2) individuals

who are mortgage lenders and two (2) individuals who are mortgage brokers;

(e) Pursuant to chapter 52, title 67, Idaho Code, issue orders and promulgate rules that, in the opinion of the director, are necessary to execute, enforce and effectuate the purposes of this chapter;

(f) Be authorized to set, by annual written notification to licensees, limits on the fees and charges which are set forth in subsections (1) and (2) of section 26-3113, Idaho Code;

(g) Require that all funds collected by the department under this chapter be deposited into the finance administrative account pursuant to section 67-2702, Idaho Code; and

(h) Review and approve forms used by licensees prior to their use as prescribed by the director.

(2) The legislature has determined that a uniform multistate administration of an automated licensing system for mortgage brokers, mortgage lenders and individual mortgage loan originators is consistent with both the public interest and the purposes of this chapter; therefore, for the sole purpose of participating in the establishment and implementation of a multistate automated licensing system for mortgage brokers, mortgage lenders and individual mortgage loan originators, the director is authorized:

(a) To modify by rule the license renewal dates set forth in section 26-3111(3) and (4), Idaho Code;

(b) To establish by rule such new requirements as are necessary for the state of Idaho to participate in a multistate automated licensing system upon the director's finding that each new requirement is consistent with both the public interest and the purposes of this chapter; and

(c) To require a background investigation of each applicant for a mortgage broker, mortgage lender or loan originator license by means of fingerprint checks by the Idaho state police and the FBI for state and national criminal history record checks, commencing at such time as Idaho joins a multistate automated licensing system for mortgage brokers, mortgage lenders and individual mortgage loan originators pursuant to this subsection (2). The information obtained thereby may be used by the director to determine the applicant's eligibility for licensing under this chapter. The fee required to perform the criminal history record check shall be borne by the license applicant. Information obtained or held by the director pursuant to this subsection (2) shall be considered confidential personal information and shall be exempt from disclosure pursuant to section 9-340C(8) and (9), Idaho Code.

(3) Nothing in subsection (2) of this section shall authorize the director to require any individual or person exempt under section 26-3103, Idaho Code, or employees or agents of any such exempt individual or person, to submit information to, or to participate in, the uniform multistate licensing system.

**26-3106. REMEDIES AVAILABLE TO THE DEPARTMENT.** (1) Whenever it appears to the director that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of the truth in lending act, the real estate settlement procedures act, regulation X, regulation Z, or of this chapter or any rule or order under this chapter, he may in his discretion bring an action in any court of competent

jurisdiction, and upon a showing of any violation there shall be granted any or all of the following:

- (a) A writ or order restraining or enjoining temporarily or permanently, any act or practice violating any provision of this chapter or any rule promulgated pursuant thereto, and to enforce compliance under this chapter or any rule or order hereunder;
- (b) An order that the person violating any provision of this chapter, or a rule or order hereunder pay a civil penalty to the department in an amount not to exceed five thousand dollars (\$5,000) for each violation;
- (c) An order allowing the director to recover costs which may include investigative expenses and attorney's fees;
- (d) An order granting a declaratory judgment that a particular act, practice or method is a violation of the provisions of this chapter;
- (e) An order granting other appropriate remedies including restitution to borrowers for excess charges or actual damages.

(2) If the director finds that a person has violated or is violating, or that there is reasonable cause to believe that a person is about to violate the provisions of this chapter, the director may, in his discretion, order the person to cease and desist from the violations.

**26-3107. BORROWERS' REMEDIES NOT AFFECTED.** The grant of powers to the director in this chapter does not limit remedies available to borrowers under this chapter or under other principles of law or equity.

**26-3108. LICENSE TO DO BUSINESS AS A MORTGAGE BROKER OR MORTGAGE LENDER.**

(1) The director shall receive and act on all applications for licenses to do business as a mortgage broker or mortgage lender. Applications shall be filed in the manner prescribed by the director, shall contain such information as the director may reasonably require, shall be updated as necessary to keep the information current, and shall be accompanied by an application fee of three hundred fifty dollars (\$350). When an application for licensure is denied or withdrawn, the director shall retain all fees paid by the applicant.

(2) An application for license may be denied if the director finds that:

- (a) The financial responsibility, character, and fitness of the license applicant, and of the officers and directors thereof, if the applicant is a corporation, partners thereof if the applicant is a partnership, members or managers thereof if the applicant is a limited liability company, and individuals designated in charge of the applicant's places of business, are not such as to warrant belief that the business will be operated honestly and fairly within the purposes of this chapter;
- (b) The individual designated in charge of applicant's places of business does not have a minimum of three (3) years' experience in residential mortgage lending;
- (c) The applicant has been convicted of any felony or a misdemeanor involving any aspect of the financial services business, or a court has accepted a finding of guilt on the part of the applicant of any felony or a misdemeanor involving any aspect of the financial services business;
- (d) The applicant has had a license, substantially equivalent to a license under this

chapter and issued by any state, denied, revoked or suspended under the law of such state;

(e) The applicant has filed an application for a license which is false or misleading with respect to any material fact;

(f) The applicant or any partner, officer, director, manager, member, employee or agent of the applicant has violated this chapter or any rule or order lawfully made pursuant to this chapter;

(g) The applicant or any partner, officer, director, manager, member, employee or agent of the applicant has violated any state or federal law, rule or regulation pertaining to the financial services industry; or

(h) The applicant has not provided information on the application as reasonably required by the director pursuant to subsection (1) of this section.

(3) The director is empowered to conduct investigations as he may deem necessary, to enable him to determine the existence of the requirements set out in subsection (2) of this section.

(4) Upon written request, an applicant is entitled to a hearing on the question of his qualifications for a license if:

(a) The director has notified the applicant in writing that his application has been denied, or objections filed;

(b) The director has not issued a license within sixty (60) days after the application for the license was filed. If a hearing is held, the applicant and those filing objections shall reimburse, pro rata, the director for his reasonable and necessary expenses incurred as a result of the hearing. A request for hearing may not be made more than fifteen (15) days after the director has mailed a writing to the applicant notifying him that the application has been denied and stating in substance the director's finding supporting denial of the application or that objections have been filed and the substance thereof.

(5) Every licensee under this section shall maintain a home office licensed under this chapter as the licensee's principal location for the transaction of mortgage business. The director may, on application, issue additional branch licenses to the same licensee upon compliance with all the provisions of this chapter governing the issuance of a single license. A separate license shall be required for each place of business from which mortgage brokering activities or mortgage lending activities are directly or indirectly conducted. The individual in charge of each place of business must satisfy the requirements of subsections (2)(b), (c) and (d) of this section. Each license under this section shall remain in full force and effect unless the licensee does not satisfy the renewal requirements of section 26-3111(3), Idaho Code, or the license is relinquished, suspended, or revoked; provided however, branch licenses shall be terminated upon the relinquishment or revocation of a home office license.

(6) No licensee under this section shall change the location of any place of business, consolidate two (2) or more locations, or close any home office location, without giving the director at least fifteen (15) days' prior written notice. A licensee under this section shall give written notice to the director within three (3) business days of the closure of any branch location licensed under this chapter. Written notice of the closure of a home or branch office location shall include a detailed explanation of the disposition of all loan applications pending at the time of closure of the licensed location.

(7) No licensee under this section shall engage in the business of making or brokering residential mortgage loans at any place of business for which he does not hold a license nor shall he engage in business under any other name than that on the license.

(8) The director may suspend action upon a mortgage broker or mortgage lender license application pending resolution of any criminal charges before any court of competent jurisdiction against an applicant which could disqualify that applicant if convicted.

(9) The director may suspend action upon a mortgage broker or mortgage lender license application pending resolution of any civil action or administrative proceeding against an applicant in which the civil action or administrative proceeding involves any aspect of a financial service business and the outcome of which could disqualify the applicant.

(10) An applicant under this section shall make complete disclosure of all information required in the application, including information concerning officers, directors, partners, members, managers, employees or agents. An applicant, or an individual acting on behalf of the applicant, is not liable in any civil action other than a civil action brought by a governmental agency, related to an alleged untrue statement made pursuant to this section unless it is shown by clear and convincing evidence that:

(a) The applicant, or an individual acting on behalf of the applicant, knew at the time that the statement was made that it was false in any material respect; or

(b) The applicant, or an individual acting on behalf of the applicant, acted in reckless disregard as to the statement's truth or falsity.

(11) Each mortgage broker or mortgage lender licensed under this chapter shall display in plain view the certificate of licensure issued by the department in its principal office and in each branch office.

#### **26-3108A. LICENSE TO DO BUSINESS AS A LOAN ORIGINATOR.**

(1) The director shall receive and act on all loan originator license applications. Applications shall be filed in the manner prescribed by the director, shall contain such information as the director may reasonably require, shall be updated as necessary to keep the information current, and shall be accompanied by an application fee of two hundred dollars (\$200). When an application for licensure is denied or withdrawn, the director shall retain all fees paid by the applicant.

(2) An application for license may be denied if the director finds that:

(a) The financial responsibility, character, and fitness of the license applicant are not such as to warrant belief that the loan originator will operate honestly and fairly within the purposes of this chapter;

(b) The applicant has been convicted of any felony or a misdemeanor involving any aspect of the financial services business, or a court has accepted a finding of guilt on the part of the applicant of any felony or a misdemeanor involving any aspect of the financial services business;

(c) The applicant has had a license, substantially equivalent to a license under this chapter and issued by any state, denied, revoked or suspended under the law of such state;

(d) The applicant has filed an application for a license which is false or misleading with respect to any material fact;

(e) The applicant has violated this chapter or any rule or order lawfully made pursuant to this chapter;

(f) The applicant has violated any state or federal law, rule or regulation pertaining to mortgage brokering, mortgage lending, or loan origination activities set forth in section 26-3102, Idaho Code; or

(g) The applicant has not provided information on the application as reasonably required by the director pursuant to subsection (1) of this section.

(3) The director is empowered to conduct investigations as he may deem necessary, to enable him to determine the existence of the requirements set out in subsection (2) of this section.

(4) Upon written request, an applicant is entitled to a hearing on the question of his qualifications for a license if:

(a) The director has notified the applicant in writing that his application has been denied, or objections filed;

(b) The director has not issued a license within sixty (60) days after the application for the license was filed. If a hearing is held, the applicant and those filing objections shall reimburse, pro rata, the director for his reasonable and necessary expenses incurred as a result of the hearing. A request for hearing may not be made more than fifteen (15) days after the director has mailed a writing to the applicant notifying him that the application has been denied and stating in substance the director's finding supporting denial of the application or that objections have been filed and the substance thereof.

(5) A loan originator may transact business only for a mortgage broker or mortgage lender licensed in accordance with the provisions of this chapter. The original license issued by the department to a loan originator must be provided to and be maintained by the employing mortgage broker or mortgage lender at the mortgage broker's or lender's main office. A copy of the loan originator's license must be displayed at the office where that loan originator principally transacts business.

(6) Each license under this section shall remain in full force and effect unless the licensee does not satisfy the renewal requirements of section 26-3111(4), Idaho Code, or the license is relinquished, suspended or revoked.

(7) A loan originator licensee under this chapter shall not engage in loan origination activities at any location that is not a licensed home or branch office location of the mortgage broker or mortgage lender he represents or is acting on behalf of, nor shall he engage in loan origination activities under any other name than that on the license.

(8) The director may suspend action upon a loan originator license application pending resolution of any criminal charges before any court of competent jurisdiction against an applicant which could disqualify that applicant if convicted.

(9) The director may suspend action upon a loan originator license application pending resolution of any civil action or administrative proceeding against an applicant, in which the civil action or administrative proceeding involves any aspect of a financial service business and the outcome of which could disqualify the applicant.

(10) An applicant under this section shall make complete disclosure of all information required in the application. An applicant, or an individual acting on behalf of the applicant, is not liable in any civil action other than a civil action brought by a governmental agency,



related to an alleged untrue statement made pursuant to this section unless it is shown by clear and convincing evidence that:

- (a) The applicant, or an individual acting on behalf of the applicant, knew at the time that the statement was made that it was false in any material respect; or
- (b) The applicant, or an individual acting on behalf of the applicant, acted in reckless disregard as to the statement's truth or falsity.

**26-3109. REVOCATION OR SUSPENSION OF LICENSE.** (1) If the department has reason to believe that grounds exist for revocation or suspension of a license, the department may initiate a contested case against a mortgage broker, mortgage lender or loan originator, and any partner, officer, director, manager, member, employee or agent whose activities constitute the basis for revocation or suspension, in accordance with chapter 52, title 67, Idaho Code. The director may, after proceedings pursuant to chapter 52, title 67, Idaho Code, suspend the license for a period not to exceed six (6) months, or revoke the license, if he finds that:

- (a) The licensee or any partner, officer, director, manager, member, employee or agent of the licensee has violated this chapter or any rule or order lawfully made pursuant to this chapter; or
- (b) The licensee or any partner, officer, director, manager, member, employee or agent of the licensee has violated any state or federal law, rule or regulation pertaining to mortgage brokering, mortgage lending, or loan origination activities set forth in section 26-3102, Idaho Code; or
- (c) Facts or conditions exist which would clearly have justified the director in refusing to grant a license had these facts or conditions been known to exist at the time the license was issued; or
- (d) The licensee or any partner, officer, director, manager, member, employee or agent of the licensee has been convicted of any felony or a misdemeanor involving any aspect of the financial services business, or a court has accepted a finding of guilt on the part of the licensee or partner, officer, director, manager, member, employee or agent of the licensee, of any felony or a misdemeanor involving any aspect of the financial services business; or
- (e) The licensee or any partner, officer, director, manager, member, employee or agent of the licensee has had a license substantially equivalent to a license under this chapter, and issued by another state, denied, revoked or suspended under the laws of such state; or
- (f) The licensee has filed an application for a license which as of the date the license was issued, or as of the date of an order denying, suspending or revoking a license, was incomplete in any material respect or contained any statement that was, in light of the circumstances under which it was made, false or misleading with respect to any material fact; or
- (g) The mortgage broker or mortgage lender licensee has employed, or has entered into a contractual relationship with, any person who performs loan origination activities for the licensee without first obtaining a loan originator license under this chapter; or
- (h) The mortgage broker or mortgage lender licensee has failed to notify the director of the employment or termination of, or the entering into or termination of a

contractual relationship with, a licensed loan originator pursuant to section 26-3111(2), Idaho Code; or

(i) The mortgage broker or mortgage lender licensee has failed to supervise diligently and control the mortgage-related activities of a loan originator employed by the licensee.

(2) If the director finds that probable cause for revocation of a license exists and that enforcement of this chapter and the public interest require immediate suspension of the license pending investigation, he may, after a hearing upon five (5) days' written notice, enter an order suspending the license for not more than thirty (30) days.

(3) Any licensee may relinquish the license by notifying the department in writing of its relinquishment, but this relinquishment shall not affect his liability for acts previously committed, and may not occur after the filing of a complaint for revocation of the license.

(4) The director may, in his discretion, reinstate a license, terminate a suspension, or grant a new license to a person whose license has been revoked or suspended if no fact or condition then exists which clearly would justify the department in refusing to grant a license.

#### **26-3110. SURETY BONDS AND CONTINUING EDUCATION.**

(1) All mortgage broker and mortgage lender licensees, with or without an office located in this state, shall maintain a surety bond to the state of Idaho in accordance with this section. The bond to be maintained shall be in the amount of twenty-five thousand dollars (\$25,000). This amount shall be increased by additional sums of ten thousand dollars (\$10,000) for each licensed branch office. The bond shall be a continuing obligation of the issuing surety. The surety's liability under the bond for any claims made thereunder either individually or in the aggregate shall in no event exceed the face amount of the bond issued. The bond shall be issued by a surety authorized to do business in the state of Idaho. The licensee shall place the bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, on file with the department. In lieu of the bonds required by this section, a certificate of deposit issued by an Idaho bank and made payable to the director may be provided to the director in the same principal amount as required for bonds. The interest on the certificate of deposit shall be payable to the licensee. The certificate of deposit shall be maintained at all times during which the licensee is authorized to conduct mortgage brokering or mortgage lending activities under this chapter, and must provide that it will remain in effect for at least three (3) years following discontinuance of operations unless released earlier by the director.

(2) All loan originator licensees under this chapter, whether operating within or outside of the state of Idaho, shall maintain a surety bond to the state of Idaho in accordance with this section. The bond to be maintained shall be in the amount of ten thousand dollars (\$10,000). The surety's liability under the bond for any claims made thereunder either individually or in the aggregate shall in no event exceed the face amount of the bond issued. The bond shall be issued by a surety authorized to do business in the state of Idaho. The licensee shall place the bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, on file with the department. In lieu of the bond required by this section, a certificate of deposit issued by an Idaho bank and made payable to the director may be provided to the director in the same principal amount as required for a bond. The interest on the certificate of deposit shall be payable to the licensee. The certificate of deposit shall be maintained at all times during

which the licensee is authorized to conduct loan origination activities under this chapter, and must provide that it will remain in effect for at least three (3) years following discontinuance of operations unless released earlier by the director.

(3) In the event that a licensee under this chapter, or any employee or agent of such licensee, has violated any of the provisions of this chapter or of a rule or order lawfully made pursuant to this chapter, or federal law or regulation pertaining to loan origination, mortgage lending or mortgage brokering activities set forth in section 26-3102, Idaho Code, and has damaged any person by such violation, then the bond shall be forfeited and paid by the surety to the state of Idaho for the benefit of any person so damaged.

(4) (a) The director may adopt rules to require continuing education of licensees under this chapter for the purpose of enhancing the professional competence and the professional responsibility of all licensees. The rules may include, but shall not be limited to, criteria for the content of continuing education courses, the accreditation of continuing education sponsors and programs, the computation of continuing education credits, and general compliance with this subsection.

(b) Continuing professional education requirements shall be determined by the director, provided however, the requirements shall not exceed twenty (20) credit hours within a two (2) year period.

(c) The director may require accredited sponsors of continuing education programs to file information, in a manner prescribed by the director, regarding the contents and materials of proposed courses to satisfy the education requirements with the director for review and approval. The director may set fees for the initial and continuing review of courses for which credit hours will be granted. The initial filing fee for review of materials shall not exceed five hundred dollars (\$500) and the fee for continued review shall not exceed two hundred fifty dollars (\$250) per annum per course offered.

#### **26-3111. RECORDS -- ANNUAL REPORTS -- RENEWAL OF LICENSE.**

(1) Every licensee shall maintain records, including financial records, in conformity with generally accepted accounting principles, in a manner that will enable the director to determine whether the licensee is complying with the provisions of this chapter. The recordkeeping system of a licensee shall be sufficient if he makes the required information reasonably available. The records need not be kept in the place of business where residential mortgage loans are made, if the director is given free access to the records wherever located. The records pertaining to any loan need not be preserved for more than three (3) years after making the final entry relating to the loan.

(2) Any mortgage broker or mortgage lender licensee who employs or contracts with a loan originator licensee, for the purpose of conducting loan origination activities, shall:

(a) Notify the director of the employment of, or contractual relationship with, a loan originator licensee within thirty (30) days of such employment or contract. Notification shall be made in a manner prescribed by the director;

(b) Notify the director of the termination of employment of, or contractual relationship with, a loan originator licensee within thirty (30) days of such termination. Notification shall be made in a manner prescribed by the director; and

(c) Maintain any records relating to the employment of, or contractual relationship with, a loan originator licensee, for a period not to exceed three (3) years.

(3) On or before August 31 of each year, every mortgage broker and mortgage lender licensee under this chapter shall pay an annual license renewal fee of one hundred fifty dollars (\$150), and file with the director a renewal form containing such information as the director may require and a composite annual report for the residential mortgage loans made or brokered by him.

(4) On or before October 31 of each year, every loan originator licensee under this chapter shall pay an annual license renewal fee of one hundred dollars (\$100), and file with the director a renewal form containing such information as the director may require.

#### **26-3112. EXAMINATION AND INVESTIGATIONS.**

(1) The director shall examine periodically at intervals he deems appropriate, the loans and business records of each licensee. In addition, for the purpose of discovering violations of the provisions of this chapter or securing information lawfully required, the director may at any time investigate the loans, business, books and records of any such licensee. For these purposes, he shall have free and reasonable access to the offices, places of business, and books and records of the licensee. The director, for purposes of examination of licensees herein, shall be paid the actual cost of examination by the licensee, within thirty (30) days of the examination.

(2) If a licensee's records are located outside this state, the licensee shall have the option to make them available to the director at a convenient location within this state, or pay the reasonable and necessary expenses for the director or his representative to examine them at the place where they are maintained. The director may designate representatives, including comparable officials of the state in which the records are located, to inspect them on his behalf.

(3) For the purposes of this section, the director may administer oaths or affirmations, and upon his own motion or upon request of any party, may subpoena witnesses, compel their attendance, adduce evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence.

(4) Upon failure to obey a subpoena or to give testimony and upon reasonable notice to all persons affected thereby the director may apply to the district court for an order compelling compliance.

**26-3113. RESTRICTIONS ON FEES AND CHARGES.** (1) With the exception of a loan cancellation fee, a licensee shall not require a borrower to pay any fees or charges prior to a residential mortgage loan closing, except:

- (a) Charges actually incurred by the licensee on behalf of the borrower for services which have been rendered by third parties necessary to process the application. These fees may include, but are not limited to, fees for credit reports, flood insurance certifications, property inspections, title insurance commitments, UCC-4 lien searches, and appraisals;
- (b) An application fee;
- (c) A rate-lock fee; and
- (d) A commitment fee upon approval of the residential mortgage loan.

(2) A loan cancellation fee may be charged and collected by a licensee at any time either prior to the scheduled closing of a residential mortgage loan transaction or subsequent thereto.

(3) Any fees charged under the authority of this section must be reasonable and customary as to the type and the amount of the fee charged.

**26-3114. PROHIBITED PRACTICES OF MORTGAGE BROKERS AND MORTGAGE LENDERS.** No mortgage broker or mortgage lender licensee or person required under this chapter to have such license shall:

- (1) Obtain any exclusive dealing or exclusive agency agreement from any borrower;
- (2) Delay closing of any residential mortgage loan for the purpose of increasing interest, costs, fees, or charges payable by the borrower;
- (3) Accept any fees at closing which were not previously disclosed fully to the borrower;
- (4) Obtain any agreement or instrument in which blanks are left to be filled in after signing by a borrower;
- (5) Engage in any misrepresentation in connection with a residential mortgage loan;
- (6) Make payment, whether directly or indirectly, of any kind to any in-house or fee appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of any real estate which is to be covered by a residential mortgage loan;
- (7) Make any false promises likely to influence or persuade, or pursue a course of misrepresentations and false promises through loan originators or other agents, or through advertising or otherwise;
- (8) Misrepresent, circumvent or conceal, through whatever subterfuge or device, any of the material particulars or the nature thereof, regarding a residential mortgage loan transaction; nor
- (9) Enter into any agreement, with or without the payment of a fee, to fix in advance a particular interest rate or other term in a residential mortgage loan unless written confirmation of the agreement is delivered to the borrower as required by rule pursuant to this chapter.

**26-3114A. PROHIBITED PRACTICES OF LOAN ORIGINATORS.** No loan originator licensee or person required under this chapter to have such license shall:

- (1) Be employed simultaneously by more than one (1) mortgage broker or mortgage lender licensed under this chapter;
- (2) Enter into concurrent contractual relationships for delivery of loan origination services to more than one (1) licensee under this chapter;
- (3) Obtain any exclusive dealing or exclusive agency agreement from any borrower;
- (4) Delay closing of any residential mortgage loan for the purpose of increasing interest, costs, fees, or charges payable by the borrower;
- (5) Accept any fees at closing which were not previously disclosed fully to the borrower;
- (6) Obtain any agreement or instrument in which blanks are left to be filled in after signing by a borrower;
- (7) Engage in any misrepresentation in connection with a residential mortgage loan;

(8) Make payment, whether directly or indirectly, of any kind to any in-house or fee appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of any real estate which is to be covered by a residential mortgage loan;

(9) Make any false promises likely to influence or persuade, or pursue a course of misrepresentations and false promises through agents, solicitors, advertising or otherwise;

(10) Misrepresent, circumvent or conceal, through whatever subterfuge or device, any of the material particulars or the nature thereof, regarding a residential mortgage loan transaction; nor

(11) Enter into any agreement, with or without the payment of a fee, to fix in advance a particular interest rate or other term in a residential mortgage loan unless written confirmation of the agreement is delivered to the borrower as required by rule pursuant to this chapter.

**26-3115. SEVERABILITY.** The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstances is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

**26-3116. INITIAL LICENSING AND COMPLIANCE.** A person who conducts any of the activities set forth in subsections (18) and (19) of section 26-3102, Idaho Code, on the effective date of this act shall, within sixty (60) days following the effective date of this act, apply to the department for a license.

**26-3116A. INITIAL LOAN ORIGINATOR LICENSING.** A person who conducts any of the activities set forth in section 26-3102(20), Idaho Code, shall have sixty (60) days to apply to the department for a loan originator license following the effective date of the loan originator licensing provisions of this chapter and, notwithstanding the provisions of section 26-3108A, Idaho Code, shall pay an initial one (1) time reduced loan origination license application fee of one hundred dollars (\$100).

**26-3117. RELATIONSHIP TO OTHER LAWS.** (1) All political subdivisions of this state shall be prohibited from enacting and enforcing ordinances, resolutions, regulations and rules pertaining to the financial or lending activities of persons who:

(a) Are subject to the jurisdiction of the department, including those whose activities are subject to this chapter;

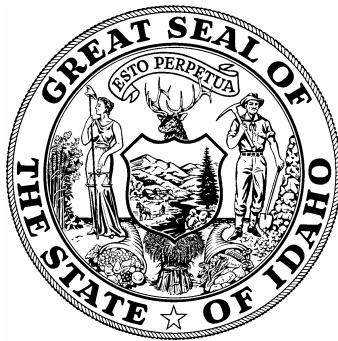
(b) Are subject to the jurisdiction or regulatory supervision of the board of governors of the federal reserve system, the office of the comptroller of the currency, the office of thrift supervision, the national credit union administration, the federal deposit insurance corporation, the federal trade commission or the United States department of housing and urban development; or

(c) Originate, purchase, sell, assign, securitize or service property interests or obligations created by financial transactions or loans made, executed or originated by persons referred to in paragraph (a) or (b) of this subsection or who assist or facilitate such transactions.

(2) The requirements of this subsection shall apply to all ordinances, resolutions and

rules pertaining to financial or lending activities, including any ordinances, resolutions or rules disqualifying persons from doing business with a political subdivision based upon financial or lending activities or imposing reporting requirements or any other obligations upon persons regarding financial or lending activities.

STATE OF IDAHO  
AN UNOFFICIAL COPY OF THE RULES  
PURSUANT TO THE IDAHO  
RESIDENTIAL MORTGAGE  
PRACTICES ACT



DEPARTMENT OF FINANCE

Effective Date, July 1, 2006



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**IDAPA 12**  
**TITLE 01**  
**Chapter 10**

**RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT**  
**DIRECTOR OF THE DEPARTMENT OF FINANCE**

**000. LEGAL AUTHORITY (Rule 0).**

This chapter is promulgated pursuant to Section 26-3105(5), Idaho Code. (11-1-98)

**001. TITLE AND SCOPE (Rule 1).**

The title of this chapter is "Rules Pursuant to the Idaho Residential Mortgage Practices Act" of the Idaho Department of Finance and may be cited as IDAPA 12.01.10. These rules implement the Residential Mortgage Practices Act, Title 26, Chapter 31, Idaho Code. (11-1-98)

**002. WRITTEN INTERPRETATIONS-AGENCY ACCESS-FILINGS (Rule 2).**

Written interpretations of these rules are available by mail from the Department of Finance, P.O. Box 83720, Boise, Idaho 83720-0031. The street address of the agency is Department of Finance, Joe R. Williams Building, 700 West State Street, Boise, Idaho, 83702. The telephone numbers of the agency include (208) 332-8000 - Administration; and (208) 332-8002 - Residential Mortgage. The telephone number of the facsimile machine is (208) 332-8099. All filings with the agency in connection with rule-making or contested cases shall be made with the Director of the Department of Finance, and shall include an original and one (1) copy. (3-30-06)

**003. ADMINISTRATIVE APPEALS (Rule 3).**

Administrative appeals are not available within the agency. (11-1-98)

**004. PUBLIC RECORDS ACT COMPLIANCE (Rule 4).**

All rules contained in this chapter are public records. (11-1-98)

**005. INCORPORATION BY REFERENCE (Rule 5).**

IDAPA 12.01.10, "Rules Pursuant to the Idaho Residential Mortgage Practices Act," incorporates by reference the full text of the following federal laws and regulations as defined in these rules: the Real Estate Settlement Procedures Act, Regulation X, the Truth in Lending Act, and Regulation Z. (3-30-06)

**006. DEFINITIONS (Rule 6).**

Except where otherwise stated, terms used in these rules which are defined in the Idaho Residential Mortgage Practices Act shall have the same meaning as set forth in that Act. As used in these rules: (3-30-06)

01. Accredited Instruction. Means a course, video, motion picture, sound recording, or

dissemination through electronic means of instructional material, which has been approved by the director for continuing professional education credit. (3-30-06)

02. Act. Means the Idaho Residential Mortgage Practices Act, Title 26, Chapter 31, Idaho Code. (3-30-06)

03. Certificate of Completion. Means written documentation issued by an education provider to a participant, in a manner approved by the director, evidencing the completion of a specific amount of credit hours of accredited instruction. (3-30-06)

04. Closing. Means the process of executing legally binding documents regarding a lien on property that is subject to a residential mortgage loan and includes the day agreed upon by a borrower and a licensee to complete such process. (3-30-06)

05. Credit Hour. Means sixty (60) minutes of accredited instruction attained through actual attendance of a course or an allotted increment of time of accredited instruction through independent study, as predetermined by the director. (3-30-06)

06. Director. Means the director of the Idaho Department of Finance. (3-30-06)

07. Education Provider. Means a provider of accredited instruction. (3-30-06)

08. Participant. Means a person who attends accredited instruction for the purpose of accruing credit hours. (3-30-06)

09. Real Estate Settlement Procedures Act. Means the act set forth in 12 USCA 2601, et seq., as amended to and including January 1, 2006. (3-30-06)

10. Regulation X. Means Regulation X as promulgated by the Department of Housing and Urban Development and codified in 24 CFR 3500 et seq., as amended to and including January 1, 2006. (3-30-06)

11. Regulation Z. Means Regulation Z as promulgated by the Board of Governors of the Federal Reserve System and codified in 12 CFR 226 et seq., as amended to and including January 1, 2006. (3-30-06)

12. Reporting Period. Means a two (2) year period of time commencing on November 1<sup>st</sup> and ending on October 31<sup>st</sup> unless otherwise specified by order of the director. (3-30-06)

13. Truth In Lending Act. Means a two (2) year period of time commencing on November 1<sup>st</sup> and ending on October 31<sup>st</sup> unless otherwise specified by order of the director. (3-30-06)

**007. -- 009. (RESERVED).**

**010. REQUIREMENTS FOR CONTINUING PROFESSIONAL EDUCATION (Rule 10).**

01. Licensee. For purposes of the “Requirements for Continuing Professional Education” provisions of this rule, the term “licensee” means a person: (3-30-06)

- a. Who is a loan originator licensed under the Act; or (3-30-06)
- b. Who is designated pursuant to Section 26-3108, Idaho Code, as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act. (3-30-06)

02. Minimum Requirements. (3-30-06)

- a. A loan originator licensed under the Act shall attain sixteen (16) credit hours within each reporting period. (3-30-06)
- b. Persons designated in the director’s files, as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act shall attain sixteen (16) credit hours within each reporting period. (3-30-06)
- c. Credit hours accrued in excess of the required sixteen (16) credit hours in any reporting period shall not carry over nor be credited to any subsequent reporting period.(3-30-06)

03. Accrual of Credit Hours. (3-30-06)

- a. For the purpose of accruing credit hours within any reporting period, a licensee shall attain no less than two (2) credit hours directly related to the Act and these rules (3-30-06)
- b. For the purpose of accruing credit hours within any reporting period, a licensee shall attain no less than fourteen (14) credit hours related to the following: (3-30-06)
  - i. Basics of home purchase and ownership; (3-30-06)
  - ii. The mortgage industry generally; (3-30-06)
  - iii. Loan evaluation and documentation; (3-30-06)
  - iv. Features of various loan products; (3-30-06)
  - v. State and federally required disclosures; (3-30-06)
  - vi. Ethical considerations; (3-30-06)
  - vii. The Idaho Credit Code; (3-30-06)

- viii. The Idaho Mortgage Company Act; (3-30-06)
- ix. The Idaho Escrow Act; (3-30-06)
- x. The Uniform Commercial Credit Code; (3-30-06)
- xi. Law related to mortgages, deeds of trust, liens, and pledges; (3-30-06)
- xii. Real estate and appraisal law; (3-30-06)
- xiii. Principal and agency law; (3-30-06)
- xiv. Contract Law; (3-30-06)
- xv. The Real Estate Settlement Procedures Act; or (3-30-06)
- xvi. Truth in Lending and the federal Consumer Credit Protection Act. (3-30-06)

c. Accredited instruction shall be of a minimum duration of one (1) credit hour and shall contribute to the goal of maintaining or increasing the knowledge, skill and competence of licensees. The principal focus of accredited instruction shall not be sales, marketing, commercial lending or commercial loan brokering, motivational, or skills pertaining to running a business.

(3-30-06)

d. A participant who successfully completes a course of accredited instruction may not repeat that course for credit hours with the same education provider within the same reporting period

3-30-06)

e. A participant may accrue credit hours within ninety (90) days prior to initial submission of an application for a loan originator license under the Act. Such credit hours shall not accrue to the participant unless the initial license application is subsequently approved by the director and a license is issued. Credit hours shall not be granted to a participant under this provision unless the participant provides the director with a copy of the certificate of completion for such accredited instruction within sixty (60) days of initial licensure.

(3-30-06)

f. Persons designated in the director's files as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act may accrue credit hours for accredited instruction attended within ninety (90) days prior to the date of approval by the director of such designation.

(3-30-06)

g. Persons who, as of January 1, 2006, are designated in the director's files as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act may accrue credit hours for accredited instruction completed on or after October 1, 2005.

(3-30-06)

04. Recordkeeping and Reporting of Accrued Credit Hours. (3-30-06)

a. Every licensee shall maintain copies of certificates of completion for a period of no less than three (3) years following completion of the accredited instruction. (3-30-06)

b. The initial reporting period for a loan originator licensed under the Act shall commence on November 1st immediately succeeding his initial licensure. (3-30-06)

c. The initial reporting period for persons who are not loan originators, but who have been designated in the director's files as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act shall commence: (3-30-06)

i. On November 1, 2006, if the person has been so designated prior to November 1, 2006; or (3-30-06)

ii. On November 1st immediately following the director's approval of the person's designation, if the person is so designated on or after November 1, 2006 (3-30-06)

d. Within thirty (30) days following the expiration of each reporting period a licensee shall deliver copies of certificates of completion to the director demonstrating the licensee's completion of the credit hours required under these rules. (3-30-06)

e. A licensee who fails to attain the credit hours required by these rules, or fails to maintain records as required in Section 010 of these rules, or fails to timely report compliance with the credit hour requirements of these rules shall be subject to license revocation or suspension as prescribed in Section 26-3109, Idaho Code. (3-30-06)

f. Upon revocation or suspension of a license issued under the Act for failure to complete or report credit hour requirements, no person shall obtain a new license or a reinstated license in the case of a license suspension, as a loan originator, mortgage broker or mortgage lender without first satisfying the credit hour requirements, which, having been previously incomplete or not reported, were the cause of the license revocation or suspension. (3-30-06)

**011. EDUCATION PROVIDERS AND CONTENT OF CONTINUING PROFESSIONAL EDUCATION (RULE 11).**

01. Submission of Continuing Professional Education Courses for Accreditation by the Director. Education provider applicants shall submit an application, in a form provided by the director, for accreditation of continuing professional education for each instructional course proposed to be offered by the education provider applicant. The application shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250) and shall include, but not be limited to, the following information:

(3-30-06)

a. The name and address of the education provider and date(s) on and locations at which the program is to be offered; (3-30-06)

b. The qualifications and experience of the education provider's principal officers, staff, and instructor(s); (3-30-06)

c. The costs of all programs for which approval is sought; (3-30-06)

d. A copy of the proposed course materials together with a description of each course for which approval is sought; and (3-30-06)

e. A sample of what is provided to participants to verify course completion. (3-30-06)

02. Granting of Accreditation of Professional Education Courses. The director shall grant accreditation to continuing professional education courses if he finds: (3-30-06)

a. That the course constitutes an organized program of learning which provides instruction on subject matter as described in Subsection 010.03 of these rules; (3-30-06)

b. That course materials are prepared, and instruction conducted, by an individual or group qualified by practical or academic experience in the subject or subjects to be presented; (3-30-06)

c. That the course shall be presented in a setting physically suited to the educational activity or in a manner which allows for participant interaction and comprehension of course materials. Training facilities for live class settings shall be easily accessible and comply with all applicable state and federal laws, including, but not limited to, the Americans With Disabilities Act of 1990; (3-30-06)

d. That course outlines, syllabi, workbooks, examinations, study-guides, or other instructional material are of a high quality, readable, and carefully prepared and relevant to the course of study offered; and (3-30-06)

e. That the prospective education provider's application is complete and truthful. (3-30-06)

03. Review of Accredited Instruction. (3-30-06)

a. An education provider shall designate one (1) person as its contact person who shall be available to the director, or to his designated representative, during ordinary business hours and shall be knowledgeable and have authority to act with regard to all administrative matters concerning instructors, scheduling, advertising, recordkeeping, and supervising all programs offered by the education provider. (3-30-06)

b. The director may periodically review the content and facilitation of accredited

instruction for the purposes of verifying that such accredited instruction continues to meet the requirements of these rules. (3-30-06)

c. The education provider shall be required to permit the director, or the director's representative, to audit the accredited instruction and course material at no cost to the director or to the director's representative. The audit shall evaluate whether the accredited instruction meets the requirements of these rules. The education provider shall permit the director or the director's representative to review records appropriate to selected course offerings. Upon a finding that accredited instruction no longer meets the requirements of these rules, the director may suspend or revoke the approval of the accredited instruction. The education provider shall be responsible for payment of audits conducted under Section 011 of these rules. (3-30-06)

d. Education providers shall notify the director of any material changes which have been made to accredited instruction within thirty (30) days of such changes. Material changes include changes materially affecting the content or facilitation of accredited instruction as it applies to the requirements of Subsection 011.02 of these rules. (3-30-06)

e. Within thirty (30) days of conclusion of a course of accredited instruction, an education provider shall submit to the director an attendance roster in a form prescribed by the director. Education providers shall maintain records related to participant attendance and completion of accredited instruction for a period of no less than three (3) years. (3-30-06)

04. Suspension of Accreditation. The accreditation of a continued professional education course may be suspended if the director determines that: (3-30-06)

a. The accredited instruction teaching method or program content no longer meets the standards of these rules, or have been materially changed without notice to the director as required; or (3-30-06)

b. The education provider granted a certificate of completion when in fact the participant had not satisfactorily completed the accredited instruction; or (3-30-06)

c. The education provider failed to grant a certificate of completion to a participant when in fact the participant had satisfactorily completed the accredited instruction; or (3-30-06)

d. The education provider or any of its instructors have had a mortgage license revoked or suspended in any jurisdiction; or (3-30-06)

e. There is other good cause why accreditation should be suspended. (3-30-06)

05. Reinstatement of Accreditation. Reinstatement of a suspended accreditation will be made upon the furnishing of proof satisfactory to the director that the conditions responsible for the suspension have been corrected. (3-30-06)



06. Renewal of Approval of Accredited Institution. The director's accreditation of a continuing professional education course shall expire two (2) years from the date of issuance and thereafter on each subsequent two (2) year anniversary of the renewal date. Application for renewal of accreditation shall be filed by not later than sixty (60) days prior to each such expiration date and shall be accompanied by a non-refundable renewal fee of one hundred fifty dollars (\$150). Applications for renewal of accreditation shall be in a form prescribed by the director and shall include documentation demonstrating that the accredited instruction continues to meet the requirements of Subsection 011.02 of these rules. (3-30-06)

07. Prohibited Practices. (3-30-06)

a. No person shall represent, in any manner that an instructional course has received approval or accreditation from the director or, that participants will receive credit hours for attendance and completion of an instructional course, unless such course has been approved by the director. (3-30-06)

b. No person shall misrepresent, circumvent or conceal, through whatever subterfuge or device, any of the material particulars of the status, content, or facilitation of an instructional course offered to participants for the purposes of meeting the continuing professional education requirements of these rules. (3-30-06)

## **012. PRESUMPTIVE ACCREDITATION (RULE 12).**

01. Instructional Courses Presumptively Accredited. Instructional courses that cover subject matter set forth in Subsection 010.03 of these rules, that are provided by the following listed organizations, or by such other organizations as may be determined by the director, are presumptively accredited and no request for accreditation of an instructional course offered by these organizations is required, unless the director determines otherwise. (3-30-06)

a. The Idaho Department of Finance. (3-30-06)

b. The National Association of Mortgage Brokers. (3-30-06)

c. The Mortgage Bankers Association. (3-30-06)

d. The National Association of Professional Mortgage Women. (3-30-06)

e. The Idaho Housing and Finance Association. (3-30-06)

f. Federal National Mortgage Association. (3-30-06)

g. Federal Home Loan Mortgage Corporation. (3-30-06)

h. The American Bankers Association. (3-30-06)

- i. Regulatory agencies of any state or of the United States that have regulatory authority over mortgage related activity. (3-30-06)
- j. Institutions of higher education accredited by the Idaho State Board of Education or by similar accrediting agencies of any other state. (3-30-06)
- k. The Conference of State Bank Supervisors. (3-30-06)
- l. The American Association of Residential Mortgage Regulators. (3-30-06)
- 02. Acceptance of Credit Hours for Presumptively Accredited Instruction. Credit hours for presumptively accredited instruction may be credited to participants in the following manner: (3-30-06)
  - a. Upon timely submission of a copy of a certificate of completion as set forth in Subsection 010.04 of these rules; or (3-30-06)
  - b. By written application by the participant, in a form prescribed by the director, within thirty (30) days of successful course completion. The application shall be accompanied by a non-refundable fee of twenty-five dollars (\$25). (3-30-06)

**013. -- 039. (RESERVED).**

**040. DECEPTIVE ADVERTISING (Rule 40).**

- 01. Advertising. Advertising means making or permitting to be made any oral, written, graphic or pictorial statements, in any manner, in the course of the solicitation of business. Deceptive advertising is defined to include the following practices by a licensee, or a person required to be licensed under the Act: (3-30-06)
  - a. Making a representation or statement of fact in an advertisement if the representation or statement is false or misleading, or if the licensee does not have sufficient information upon which a reasonable belief in the truth of the representation or statement could be based. (11-1-98)
  - b. Advertising without clearly and conspicuously disclosing the licensee's business name. (11-1-98)
  - c. Engaging in bait advertising or misrepresenting, directly or indirectly the terms, conditions or charges incident to the mortgage loan being advertised. Bait advertising, for these purposes, means an alluring, but insincere offer to procure, arrange, or otherwise assist a borrower in obtaining a mortgage loan on terms which the licensee cannot, does not intend, or want to provide, or which the licensee knows cannot be reasonably provided. Its purpose is to switch borrowers from obtaining the advertised mortgage loan product to obtaining a different mortgage loan product, usually at a higher rate or on a basis more advantageous to the licensee. (11-1-98)  
(3-30-06)

d. Advertising an address at which the licensee conducts no mortgage brokering or lending activities or for which the licensee does not hold a license. (3-30-06)

e. Advertising in a manner that has the effect of misleading a person to believe that the advertisement or solicitation is from a person's current mortgage holder, a government agency, or that an offer is a limited opportunity when such is not the case. (3-30-06)

**041. -- 049. (RESERVED).**

**050. WRITTEN DISCLOSURES (RULE 50).**

01. Upon Receipt of a Residential Mortgage Loan Application. Upon receipt of a residential mortgage loan application, and before receipt of any moneys from a borrower, a licensee shall disclose to each borrower, in a form acceptable to the Director, information about the licensee, the services that a licensee may provide and the services that the licensee will provide. (3-30-06)

02. Information Provided Within Three Days. Within three (3) business days after receipt of a residential mortgage loan application, a licensee shall provide to the borrower the following disclosures specific to the residential mortgage loan application: (3-30-06)

a. Disclosures in compliance with the requirements of the federal Truth-in-Lending Act and Regulation Z. These include the annual percentage rate, finance charge, amount to be financed, total of all payments, number of payments, amount of each payment, amount of points or prepaid interest; and if a variable rate loan, the circumstances under which the rate may increase, any limitation on the increase, the effect of an increase on the monthly payment amount and total interest to be paid, and an example of the payment terms resulting from an increase for a loan in the approximate amount of the loan that is being requested. (11-1-98)

b. Disclosures through good faith estimates of settlement services in compliance with the requirements of the federal Real Estate Settlement Procedures Act and Regulation X. These disclosures include the itemized costs of any credit report, appraisal, title report, title insurance policy, mortgage insurance, premium pricing, escrow fee, loan closing fee, property tax, insurance premium, structural or pest inspection and any mortgage broker or mortgage banker fees associated with the residential mortgage loan. (11-1-98)

03. Interest Rate Lock-In Agreement Not Entered. If, at the time of application, an interest rate lock-in agreement has not been entered, disclosure shall be made to the borrower, in a form approved by the director, that the disclosed interest rate and terms are subject to change. A licensee shall provide such disclosure to the borrower within three (3) business days of the licensee's receipt of an application for a residential mortgage loan. (3-30-06)

04. Licensee Enters into a Lock-In Agreement. If a licensee enters into an interest rate lock-in agreement with a lender or represents to the borrower that the licensee has entered into a lock-in agreement, then within no more than three (3) business days thereafter, including Saturdays, the licensee shall deliver or send by first-class mail to the borrower a written confirmation of the term of the lock-in agreement. (3-30-06)

05. In Addition to Disclosures Required. In addition to the disclosures required under Subsection 050.02 of these rules, if a prepayment penalty may be a condition of a residential mortgage loan offered by a licensee, that fact shall be separately disclosed in writing to the borrower by the licensee. The disclosure shall state that a prepayment penalty provision imposes a charge if the borrower refinances or pays off the mortgage loan before the date for repayment stated in the loan agreement. This written disclosure shall be in a form approved by the director, and shall be delivered to the borrower within three (3) business days of the licensee's receipt of an application for a residential mortgage loan. (3-30-06)

**051. -- 059. (RESERVED).**

**060. PROHIBITED PRACTICES (Rule 60).**

01. Prohibited Practices. It shall be a prohibited practice for any licensee, or person required to be licensed under the Act to: (3-30-06)

a. Make any representation or statement of fact, or omit to state a material fact, if the representation, statement or omission is false or misleading or has the tendency or capacity to be misleading, or if the licensee or lender does not have sufficient information upon which a reasonable belief in the truth of the representation or statement could be based. Such claims or omissions include but are not limited to the availability of funds, terms, conditions, or changes incident to the mortgage transaction, prepayment penalties and the possibility of refinancing. (11-1-98)

b. Fail to disburse funds in a timely manner, in accordance with any commitment or agreement with the borrower, either directly or through a broker: (11-1-98)

i. Either immediately upon closing of the loan in the case of a purchase/sale transaction; or (11-1-98)

ii. Immediately upon expiration of the three (3) day rescission period in the case of a refinancing, or taking of a junior mortgage on the existing residence of the borrower. (3-30-06)

iii. For the purposes of this paragraph, the term "immediately" represents a period of time no greater than seventy-two (72) hours. (3-30-06)

c. Fail to give the borrower, upon the borrower's verbal or written request, a reasonable opportunity of at least twenty-four (24) hours prior to closing to review every document to be signed or acknowledged by the borrower for the purpose of obtaining a residential mortgage loan, and every document which is required pursuant to these rules, and other applicable laws, rules or regulations. (3-30-06)

d. Require a borrower to obtain or maintain fire insurance or other hazard insurance in an amount that exceeds the replacement value of the improvements to the real estate. (3-30-06)

e. Engage in any deceptive advertising as set forth in Section 040 (Rule 40).  
(11-1-98)

f. Provide or offer to provide any services, for compensation or gain, such as credit repair, credit debt counseling, investment advising, real estate brokerage services, tax or legal advice, unless the person offering such services has first obtained a license or approval required by the appropriate licensing authority to engage in the offering of such services. (3-30-06)

**061. -- 089. (RESERVED).**

**090. BORROWERS UNABLE TO OBTAIN LOANS (Rule 90).**

If, for any reason, a licensee does not obtain a residential mortgage loan for a borrower, that is satisfactory to the borrower, and the borrower has paid for an appraisal, the licensee shall give a copy of the appraisal to the borrower and transmit and assign original appraisal reports, along with any other documents provided by the borrower, to any other licensee or person exempt from licensure to whom the borrower directs that the documents be transmitted. The licensee shall provide the copies or transmit the documents within three (3) business days after the borrower makes the request in writing.

(3-30-06)

**091. -- 999. (RESERVED).**

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